

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JOHN D. LANE

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:14CV127-HSO-RHW

GARDEN PARK MEDICAL CENTER

DEFENDANT

PROPOSED FINDINGS OF FACT AND RECOMMENDATION

Plaintiff John D. Lane, proceeding *pro se*, filed a complaint against Defendant Garden Park Medical Center alleging medical malpractice. Doc. [1]. He filed his complaint on March 14, 2014. Rule 4(m) of the Federal Rules of Civil Procedure requires that the summons and complaint be served on a defendant within 120 days of the filing of the complaint. There is no indication in the docket that summons has issued or that Plaintiff has effected service of process on Defendant. The deadline for serving the complaint was approximately July 14, 2014.

On August 18, 2014, the Court entered an order directing Plaintiff to show cause why his complaint should not be dismissed for failure to effect timely service of process. Doc. [2]. The order provided a deadline of September 5, 2014, for Plaintiff to respond. The order further cautioned Plaintiff "that failure to respond to this Order will result in the dismissal of the lawsuit for failure to prosecute." The response deadline has passed by more than two weeks, and Plaintiff has not filed a response to the show cause order. The undersigned concludes that Plaintiff has abandoned his claims and, therefore, recommends that Plaintiff's complaint be dismissed without prejudice for failure to prosecute.

RECOMMENDATION

The undersigned recommends that Plaintiff's lawsuit be dismissed without prejudice for failure to prosecute.

NOTICE OF RIGHT TO APPEAL/OBJECT

Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within fourteen (14) days after being served with a copy unless the time period is modified by the District Court. A party filing objections must specifically identify those findings, conclusions and recommendations to which objections are being made; the District Court need not consider frivolous, conclusive or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the District Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar that party from a de novo determination by the District Court. Additionally, a party's failure to file written objections to the proposed findings, conclusions, and recommendation contained in this report within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed **factual findings and legal conclusions** that have been accepted by the district court and for which there is no written objection. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

SO ORDERED, this the 22nd day of September, 2014.

/s/ Robert H. Walker
ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE